

Michael J. Schroeder, P.C.  
3610 North Josey Lane, Suite 206  
Carrollton, Texas 75007  
(972) 394-3086  
FAX (972) 394-1263

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

In re: MARCUS SAENZ	§	
	§	Case No. 10-12422 cag
	§	Chapter 7
AURORA LOAN SERVICES, LLC	§	
Movant,	§	
vs.	§	
MARCUS SAENZ, Debtor(s),	§	
and RANDOLPH N. OSHEROW, Trustee,	§	
Respondents.	§	

**MOTION FOR RELIEF FROM STAY OF ACT AGAINST PROPERTY**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE;

COMES NOW Movant, AURORA LOAN SERVICES, LLC, a secured creditor in this proceeding, and for its Motion for Relief from Stay of Act Against Property against MARCUS SAENZ and ("Debtor(s)") and RANDOLPH N. OSHEROW ("Trustee"), respectfully represents and moves as follows:

**NOTICE TO PARTIES IN INTEREST**

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS. IF NO TIMELY RESPONSE IS FILED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF SERVICE, NO HEARING WILL BE HELD AND THE RELIEF REQUESTED IN THE MOTION MAY BE GRANTED WITHOUT A HEARING BEING HELD. A TIMELY RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.**

1. On AUGUST 31, 2010, the Debtor(s) filed their Petition in this case. RANDOLPH N. OSHEROW is the Trustee in this case.
2. This Court has jurisdiction of this Motion by virtue of 11 U.S.C. §§ 103, 361, 362 and 28 U.S.C. §§ 1334, 157 and Bankruptcy Rule 9014.

3. Movant is the owner and holder of a claim herein, which is evidenced by that certain Note ("Note") executed by MARCUS SAENZ, A MARRIED MAN, JOINED BY HIS WIFE, dated AUGUST 10, 2006, in the original amount of \$880,000.00, and payable to the order of LEHMAN BROTHERS BANK, FSB, which is secured by a Deed of Trust ("Deed of Trust") covering certain real property located at 7051 GILBERT ROAD, MANOR, TEXAS 78653 (the "property"). True and accurate copies of the Note and Deed of Trust are attached hereto and incorporated herein by this reference.

4. As of SEPTEMBER 2, 2010, the **approximate** unpaid principal balance on the Note was \$1,103,423.37.

5. In addition, the Debtor(s) are in default under the terms of the Note and Deed of Trust in that they have failed to make the monthly payments due MAY 1, 2008 through AUGUST 1, 2010 @ \$8,633.06. The total payment arrearage is \$241,725.68.

6. As a result of the arrearage on the Note, the Debtor(s) have not and cannot provide adequate protection of its interest in the Property covered by the Deed of Trust. Consequently, relief from the automatic stay should be granted because Movant lacks adequate protection of its interest in the property.

7. Movant has been required to retain the undersigned counsel to represent it and file and pursue this Motion in this Court as a result of Debtor(s)' default and Movant has incurred and is incurring attorney's fees and expenses and other costs and expenses for which the Debtor(s) are liable pursuant to the provisions of the Note and applicable law in an amount not less than \$500.00, plus actual expenses associated with filing this Motion.

WHEREFORE, PREMISES CONSIDERED, Movant respectfully requests that, upon hearing of this Motion, the automatic stay be terminated as to Movant, its successors or assigns,

to permit a non-judicial foreclosure sale of the above-described property under the terms of the Deed of Trust and to pursue other available state law remedies to the exclusion of the Debtor(s); or, in the alternative, that any continuation of the automatic stay be conditioned upon the Debtor(s) furnishing to Movant adequate protection, including but not limited to, payment of all past due arrearage, attorneys' fees, costs and expenses; and that the Court grant such other and further relief as is just and equitable.

Signed: September 10, 2010

Respectfully Submitted,

  
/s/ Michael J. Schroeder

Michael J. Schroeder  
State Bar No. 17817380  
3610 North Josey Lane, Suite 206  
Carrollton, Texas 75007  
(972) 394-3086  
FAX (972) 394-1263  
ATTORNEYS FOR MOVANT

**CERTIFICATE OF SERVICE**


I hereby certify that a true and correct copy of the foregoing document was deposited in a U.S. mail receptacle or electronically mailed to the attention of the following persons on September 10, 2010:

Debtor(s):  
MARCUS SAENZ  
7051 GILBERT ROAD  
MANOR, TEXAS 78653

Trustee:  
RANDOLPH N. OSHEROW  
342 W. WOODLAWN, SUITE 100  
SAN ANTONIO, TX 78212

Debtor(s)Attorney:  
JEFFREY S. KELLY  
P.O. BOX 2125  
AUSTIN, TX 78701

U. S. TRUSTEE:  
615 E. HOUSTON, ROOM 533  
SAN ANTONIO, TEXAS 78295

  
/s/ Michael J. Schroeder  
Michael J. Schroeder